

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ANNEXING
CERTAIN REAL PROPERTY COMMONLY KNOWN AS TRACT NO. 10328 - PRYNT,
75 SOUTH MILPITAS BOULEVARD, INTO CITY OF MILPITAS COMMUNITY FACILITIES
DISTRICT NO. 2005-1, ANNEXATION NO. 16**

WHEREAS, Taylor Morrison, LLC, a California Limited Liability Company, is the owner of certain real property commonly known as Tract No. 10328 – Prynt (APN. 086-28-050), more specifically described in the annexation map attached as **Exhibit 1.A** to this Resolution; and

WHEREAS, on January 6, 2015, the City Council conditionally approved a Vesting Tentative Map for a 25-unit residential development project, including 5 live-work units at 75 South Milpitas Boulevard; and

WHEREAS, on May 17, 2005, the City Council created by resolution the City of Milpitas Community Facilities District No. 2005-1 (“CFD 2005-1”) pursuant to the Mello-Roos Community Facilities Act of 1982, California Government Code Section 53311 *et seq.* Each fiscal year, a special tax is levied on all assessor’s parcels of residential property in CFD 2005-1 in an amount determined by the Council, as described in the attached **Exhibit 1.B** to this Resolution; and

WHEREAS, the City has on file a Certificate of Registrar of Voters from the County of Santa Clara certifying that there is no registered voters residing within the boundaries of proposed Annexation No. 16 to the CFD 2005-1; and

WHEREAS, pursuant to the Mello-Roos Community Facilities Act, the City Council also established a procedure to allow and provide for the annexation of parcels within the boundaries of CFD 2005-1 in the future without additional hearings, upon the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, pursuant to Government Code Section 53339.7; and

WHEREAS, Taylor Morrison, LLC, a California Limited Liability Company, now voluntarily seeks to annex its property to CFD 2005-1 and to be subject to the levy of a special tax thereunder.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Legally valid and unanimous consent to the annexation of real property identified as Assessor’s Parcel No. 086-28-050 into CFD 2005-1 has been given, as set forth in the Consent and Election to Annex Real Property To An Existing Community Facilities District, attached hereto as **Exhibit 1**. All prior proceedings and actions taken by the City Council pursuant to the Mello-Roos Community Facilities Act and this Resolution were and are valid and in conformity with State and local law.
3. The City Council hereby declares and determines that the territory comprising Annexation No. 16, as described in **Exhibit 1.A**, is now added to and becomes a part of CFD 2005-1.

City staff is hereby directed to include the property in the annual assessment. In no event shall the annual per-lot assessment exceed the maximum amount authorized by the Engineer's Report for the CFD 2005-1 in any given fiscal year. **Exhibit 2** attached hereto is provided to show all parcels that have been annexed to the CFD 2005-1.

4. The City Clerk is hereby directed to record an amendment to the Notice of Special Tax Lien within fifteen (15) days of the adoption of this Resolution in the Office of the County Recorder. The City Clerk is further directed to file a certified copy of the map, attached as **Exhibit 2**, within fifteen (15) days of the adoption of this Resolution in the Office of the County Recorder.
5. The City Clerk shall certify the adoption of this Resolution.
6. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2016 by the City Council
by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

EXHIBIT 1

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT

CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES)

TO: CITY COUNCIL OF THE CITY OF MILPITAS IN ITS CAPACITY AS THE LEGISLATIVE
BODY OF THE ABOVE ENTITLED COMMUNITY FACILITIES DISTRICT:

1. The undersigned is the owner (the "Owner"), or the duly authorized representative of the Owner, of the real property as described in **Exhibit 1.A** attached hereto and incorporated herein by reference (the "Property"), and in such capacity, possesses all legal authority necessary to execute this Consent and Election as and on behalf of the Owner in connection with the annexation of the Property to the District (as defined below).

The Owner is: **Taylor Morrison, LLC, a California Limited Liability Company.**

2. The Owner is aware of and understands the following:
 - A. The City of Milpitas has conducted proceedings pursuant to the "Mello-Roos Community Facilities Act of 1982," (Government Code Section 53311 and following) (the "Act") to form a community facilities district known and designated as COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES) (the "District") to finance the increased demand for public services (the "Services") resulting from new development within the District. The services to be financed by the CFD comprise services ("Services") authorized to be financed pursuant to Section 53313 and 53313.5 of the Government Code. CFD 2005-01 shall finance Services only to the extent they are in addition to those provided in the territory of CFD 2005-1 before the CFD was created and such Services may not supplant services already available within CFD 2005-1 when the CFD was created. For a full and complete description of the public services, reference is made to the final CFD Report, a copy of which is on file in the Office of the City Clerk. For all particulars, reference is made to said CFD Report.
 - B. The City has also undertaken proceedings pursuant to Article 3.5 of the Act to provide for the future annexation of certain territory, including the Property, to the District. On May 17, 2005, the City held a public hearing as required by the Act, to consider the future annexation of such territory, including the Property, to the District. Notice of such hearing was given in the form and manner as required by law. A protest to such future annexation was not received from 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be annexed in the future or the owners of one-half or more of the area of land in the territory proposed to be annexed in the future. At the conclusion of such public hearing, the legislative body of the City did approve and provide for the annexation in the future upon the unanimous approval of the owner or owners of each parcel or parcels at the time that such parcel or parcels are annexed, without additional hearings.

THE UNDERSIGNED DOES HEREBY CERTIFY UNDER PENALTY OF PERJURY AS FOLLOWS:

3. The Owner consents and elects to and expressly approves annexation of the Property to the District and the authorization for the levy of the Special Tax within the Property without further public hearing and without an election conducted pursuant to the provisions of Government Code Section 53339.7 and Article 2 of the Act and the Elections Code of the State of California. Owner agrees and intends that such consent and approval constitutes Owner's election to annex the Property to the District and to approve the authorization for the levy of the Special Tax within the Property.
4. The Owner waives any right, which the Owner may have to make any protest or complaint or undertake any legal action challenging the validity of the proceedings of the City or the District to authorize the future annexation of the Property to the District or the authorization for the levy of the Special Tax within the Property, any necessity, requirement, right or entitlement for further public hearing or election pertaining to the annexation of the Property to the District and the levy of the Special Tax within the Property.
5. The Owner specifically authorizes the levy of the Special Tax on the Property pursuant to the rate and method of apportionment set forth in **Exhibit 1.B** to pay for the authorized Public Services.

EXECUTED this ___ day of June, 2016, in _____, California.

Taylor Morrison, LLC
a California Limited Liability Company

By: _____
Name: _____
Title: _____

Note:

1. Signatures of property owner(s) or representatives must be notarized.
2. Proof of Authorization to sign is required for Corporations, Partnerships, Limited Liability Companies, Trusts, etc.

ACKNOWLEDGMENT

State of California
County of Santa Clara

On _____ before me, _____, Notary Public,
personally appeared _____ who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____

EXHIBIT 1.A

**CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING
COMMUNITY FACILITIES DISTRICT**

**CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2005-1
(PUBLIC SERVICES)**

ANNEXATION NO. 16

Assessor's Parcel No.

086-28-050

Name of the Owner

TAYLOR MORRISON, A California Limited Liability Company

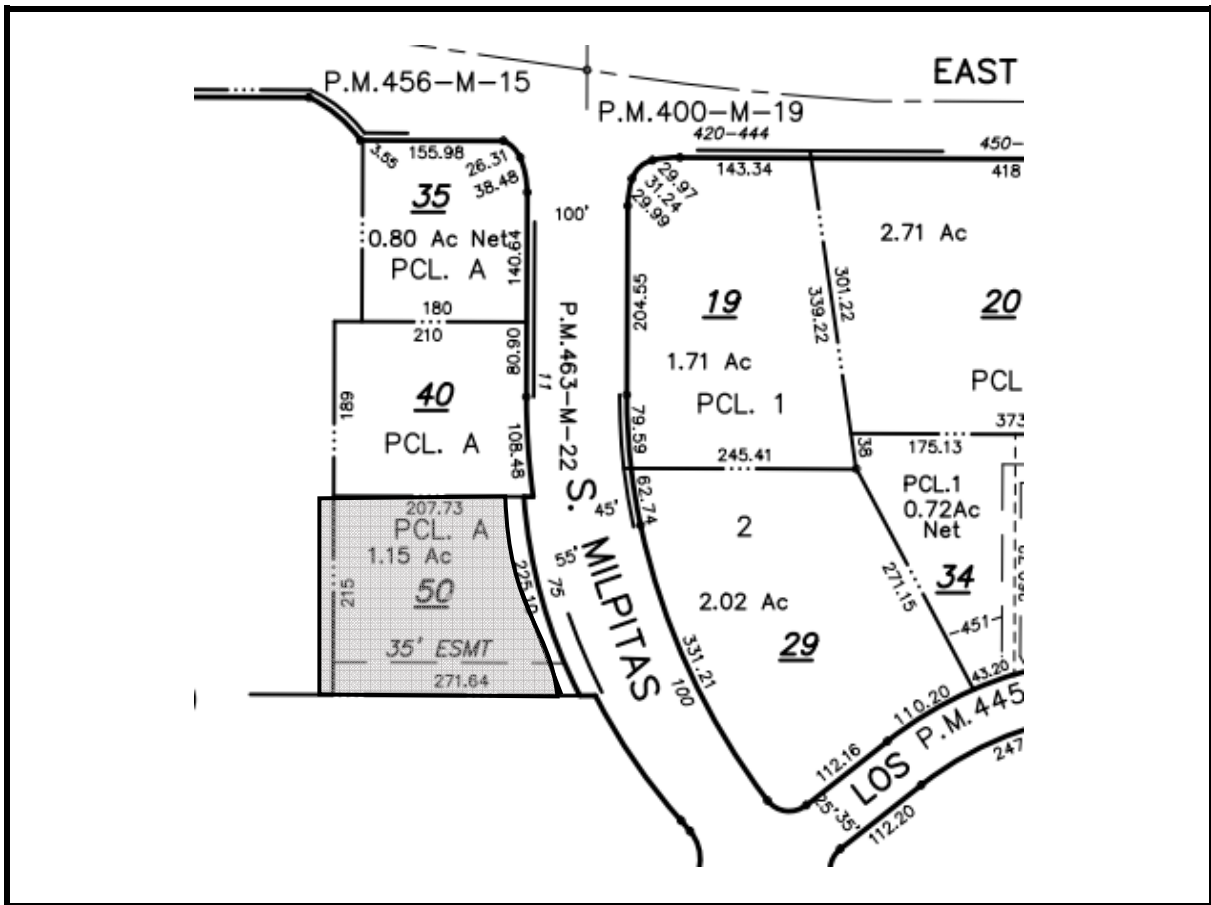


EXHIBIT 1.B

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT

CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Residential Property in City of Milpitas Community Facilities District No. 2005-1 (Public Services) ("CFD No. 2005-1"), and collected each Fiscal Year commencing in Fiscal Year 2005-06 an amount determined by the Council through the application of the appropriate Special Tax, as described below. All of the real property in CFD No. 2005-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2005-1: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 2005-1 or any designee thereof of complying with City, CFD No. 2005-1 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2005-1 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2005-1 for any other administrative purposes of CFD No. 2005-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Affordable Housing" means any Dwelling Units located on Residential Property that are subject to deed restrictions, resale restrictions and/or regulatory agreements recorded on the property that provide housing for persons that meet the Low, Very Low, and/or Extremely Very Low income levels pursuant to, as applicable, California Health & Safety Code Sections 50093, 50079.5, 50105, or 50106. The Fiscal Year after the January 1 following the termination of the agreement containing covenants or similar instrument, a Dwelling Unit shall no longer be considered Affordable Housing.

"Assessor's Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel number.

"Certificate of Occupancy" means a certificate issued by the City that authorizes the actual occupancy of a Dwelling Unit for habitation by one or more residents.

"CFD Administrator" means an official of the City, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

"CFD No. 2005-1" means City of Milpitas Community Facilities District No. 2005-1 (Public Services).

"City" means the City of Milpitas.

"Consumer Price Index" means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the San Francisco-Oakland-San Jose Area, measured as of the month of February in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the San Francisco-Oakland-San Jose Area.

"Council" means the City Council of the City, acting as the legislative body of CFD No. 2005-1.

"County" means the County of Santa Clara.

"County Median Income" means the current median income for the County of Santa Clara as determined by the U.S. Department of Housing and Urban Development.

"Developed Property" means, for each Fiscal Year, all Assessor's Parcels of Residential and Non-Residential Property for which a Certificate of Occupancy, or equivalent certificate, was issued before February 1 of the prior Fiscal Year, but not earlier than February 1, 2005.

"Dwelling Unit" means a building or portion thereof designed for and occupied in whole or part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit. Boarding or lodging houses, dormitories, and hotels shall not be defined as Dwelling Units unless the land use permit specifies a residential use.

"Extremely Low-Income Affordable Housing" means Affordable Housing suitable for households with incomes at or below 30% of the County Median Income.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Land Use Class" means the land use class into which an Assessor's Parcel of Residential Property has been assigned.

"Low-Income Affordable Housing" means Affordable Housing suitable for households with incomes at or below 80% of the County Median Income.

"Maximum Special Tax" means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C, below, that can be levied on any Assessor's Parcel of Residential Property.

"Market-Priced Residential Property" means Residential Property not classified as Affordable Housing.

"Non-Residential Property" means, for each Fiscal Year, any Assessor's Parcel of Developed Property which is not a Residential Property.

"Property Owner Association Property" means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 2005-1 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association.

"Proportionately" means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Residential Property.

"Public Property" means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2005-1 that is owned by or irrevocably offered for dedication to the federal government, the State, the City or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2005-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"Residential Property" means, for each Fiscal Year, any Assessor's Parcel of Developed Property for which a Certificate of Occupancy has been issued for purposes of allowing residents to inhabit one or more residential Dwelling Units.

"Services" means services that CFD No. 2005-1 is authorized to fund. CFD No. 2005-1 shall finance Services only to the extent that they are in addition to those provided in the territory of CFD No. 2005-1 before CFD No. 2005-1 was created and such Services may not supplant services already available within CFD No. 2005-1 when CFD No. 2005-1 was created.

"Special Tax" means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Residential Property to fund the Special Tax Requirement.

"Special Tax Requirement" means that amount to be collected in any Fiscal Year for CFD No. 2005-1 to pay for certain costs as required to meet the needs of CFD No. 2005-1 in that Fiscal Year. The costs to be covered shall be the costs of (i) Services, and (ii) Administrative Expenses; less (iii) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator.

"State" means the State of California.

"Undeveloped Property" means, for each Fiscal Year, all property not classified as Residential Property, Non-Residential Property, Public Property, or Property Owner Association Property.

"Very Low-Income Affordable Housing" means Affordable Housing suitable for households with incomes at or below 50% of the County Median Income.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Assessor's Parcels, as applicable within CFD No. 2005-1, shall be classified as Residential Property, Non-Residential Property, Undeveloped Property, Public Property, or Property Owner Association Property. However, only Residential Property shall be subject to annual Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Residential Property shall be assigned to Land Use Classes 1-4, as listed in Table 1, below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

a. Maximum Special Tax

The Maximum Special Taxes for Fiscal Year 2005-06 for Residential Property are shown below in Table 1, based on the Land Use Class in which such Residential Property has been assigned. Under no circumstances shall a Special Tax be levied on Non-Residential Property, or for renovations to an existing Dwelling Unit located on Residential Property.

TABLE 1

**Maximum Special Taxes for Developed Property
For Fiscal Year 2005-06
Community Facilities District No. 2005-1**

Land Use Class	Land Use Type	Maximum Special Tax Per Dwelling Unit
1	Market-Priced Residential Property	\$310.61 per Dwelling Unit
2	Low- Income Affordable Housing	\$248.48 per Dwelling Unit
3	Very Low-Income Affordable Housing	\$155.30 per Dwelling Unit
4	Extremely Low-Income Affordable Housing	\$0.00 per Dwelling Unit

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2006, the Maximum Special Taxes set forth above shall be increased annually by the greater of the change in the San Francisco-Oakland-San Jose Area Urban Consumer Price Index during the twelve months prior to February of the previous Fiscal Year, or two percent (2%).

2. Undeveloped Property, Non-Residential Property, Public Property or Property Owner Association Property

No Special Taxes shall be levied on Undeveloped Property, Non-Residential Property, Property Owner Association Property, Public Property or Residential Property assigned to Land Use Class 4.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Council or its designee shall levy the annual Special Tax Proportionately for each Assessor's Parcel of Residential Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

E. EXEMPTIONS

No Special Tax shall be levied on Undeveloped Property, Non-Residential Property, Public Property, Property Owner Association Property or Residential Property assigned to Land Use Class 4. However, should an Assessor's Parcel no longer be classified as Non-Residential Property, Public Property, Property Owner Association Property, or Residential Property assigned to Land Use Class 4, such Assessor's Parcel, if reclassified as Residential Property assigned to Land Use Classes 1, 2 or 3, shall be subject to the Special Tax. Furthermore, an Assessor's Parcel of Residential Property assigned to Land Use Classes 1, 2 or 3, if reclassified as belonging to a different Land Use Class, shall be subject to the Special Tax associated with its new Land Use Class.

Furthermore, no Special Tax shall be levied on the portion of Santa Clara County Assessor's Parcel Number 086-050-09 encompassed by the metes and bounds listed on Attachment 1.

F. APPEALS AND INTERPRETATIONS

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant's disagreement with the CFD Administrator's determination. The decision by the Council shall be final. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

G. MANNER OF COLLECTION

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2005-1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations. In particular, the Special Tax for Affordable Housing may be collected off of the tax roll, to facilitate payment of the Special Tax by a party other than the property owner.

H. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement.

ATTACHMENT 1

All that real property situated in the City of Milpitas, County of Santa Clara, State of California, described as follows:

A portion of "Parcel B", as said Parcel is shown on that certain Record of Survey Map filed March 7, 1963, for record in Book 157 of Maps, at Page 56, Santa Clara County Records, being more particularly described as follows:

Commencing at the point of intersection of the centerline of Abel Street, 90.00 feet wide, as shown on said Map, with the prolongation of the northerly line of "Parcel B", as shown on said Map; thence running along said northerly line and the prolongation thereof

- 1.) S64°01'00"W, a distance of 1,825.87 feet to the TRUE POINT OF BEGINNING; said point also being the beginning of a curve to the right, from which the radius point bears S25°59'00"E, a radial distance of 45.50 feet; thence leaving said northerly line
- 2.) Easterly and Southerly along said curve to the right, through a central angle of 142°55'16", a distance of 113.50 feet; to the beginning of a reverse curve to the left having a radius of 25.00 feet; thence
- 3.) Southerly along said curve, through a central angle of 39°49'17", a distance of 17.38 feet; thence
- 4.) S12°53'01"E, a distance of 413.45 feet to the beginning of a curve to the left having a radius of 370.00 feet; thence
- 5.) Southeasterly along said curve, through a central angle of 2°39'10", a distance of 17.13 feet to the southerly line of said "Parcel B", thence along said southerly line
- 6.) S66°02'30"W, a distance of 622.12 feet to the westerly line of said "Parcel B", said line also being the easterly line of State Highway "Interstate 880"; thence leaving said southerly line and running along said westerly and easterly line
- 7.) N14°19'57"W, a distance of 229.41 feet to the southerly line of the Lands of State of California as described in the deed recorded July 3, 1970 in Book 8975, Page 149, Official Records of Santa Clara County, California; thence running along said southerly line
- 8.) N75°40'03"E, a distance of 14.00 feet to the easterly line of said Lands of the State of California; thence leaving said southerly line and running along said easterly line
- 9.) N14°19'57"W, a distance of 140.47 feet; thence continuing along said easterly line
- 10.) N09°27'34"W, a distance of 139.91 feet to the northerly line of said "Parcel B"; thence leaving said easterly line and running along said northerly line
- 11.) N64°01'00"E, a distance of 572.58 feet to the TRUE POINT OF BEGINNING.

Containing 315,187.25 square feet or 7.2357 acres, more or less.

**CERTIFICATION OF ADEQUACY OF CONSENT AND ELECTION TO ANNEX REAL
PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT**

**CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2005-1
(PUBLIC SERVICES)**

ANNEXATION NO. 16

The undersigned is the duly appointed CITY CLERK for the proceedings relating to the annexation of property to the District.

On the _____ day of _____, 20____, at MILPITAS, California.

CITY CLERK
CITY OF MILPITAS
STATE OF CALIFORNIA

EXHIBIT 1

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES)

TO: CITY COUNCIL OF THE CITY OF MILPITAS IN ITS CAPACITY AS THE LEGISLATIVE
BODY OF THE ABOVE ENTITLED COMMUNITY FACILITIES DISTRICT:

1. The undersigned is the owner (the "Owner"), or the duly authorized representative of the Owner, of the real property as described in **Exhibit 1.A** attached hereto and incorporated herein by reference (the "Property"), and in such capacity, possesses all legal authority necessary to execute this Consent and Election as and on behalf of the Owner in connection with the annexation of the Property to the District (as defined below).

The Owner is: **Taylor Morrison, LLC, a California Limited Liability Company**

2. The Owner is aware of and understands the following:
 - A. The City of Milpitas has conducted proceedings pursuant to the "Mello-Roos Community Facilities Act of 1982", (Government Code Section 53311 and following) (the "Act") to form a community facilities district known and designated as COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES) (the "District") to finance the increased demand for public services (the "Services") resulting from new development within the District. The services to be financed by the CFD comprise services ("Services") authorized to be financed pursuant to Section 53313 and 53313.5 of the Government Code. CFD 2005-01 shall finance Services only to the extent they are in addition to those provided in the territory of CFD 2005-1 before the CFD was created and such Services may not supplant services already available within CFD 2005-1 when the CFD was created. For a full and complete description of the public services, reference is made to the final CFD Report, a copy of which is on file in the Office of the City Clerk. For all particulars, reference is made to said CFD Report.
 - B. The City has also undertaken proceedings pursuant to Article 3.5 of the Act to provide for the future annexation of certain territory, including the Property, to the District. On May 17, 2005, the City held a public hearing as required by the Act, to consider the future annexation of such territory, including the Property, to the District. Notice of such hearing was given in the form and manner as required by law. A protest to such future annexation was not received from 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be annexed in the future or the owners of one-half or more of the area of land in the territory proposed to be annexed in the future. At the conclusion of such public hearing, the legislative body of the City did approve and provide for the annexation in the future upon the unanimous approval of the owner or owners

of each parcel or parcels at the time that such parcel or parcels are annexed, without additional hearings.

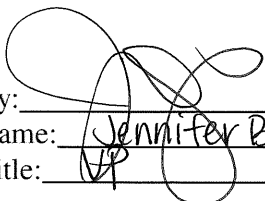
THE UNDERSIGNED DOES HEREBY CERTIFY UNDER PENALTY OF PERJURY AS FOLLOWS:

3. The Owner consents and elects to and expressly approves annexation of the Property to the District and the authorization for the levy of the Special Tax within the Property without further public hearing and without an election conducted pursuant to the provisions of Government Code Section 53339.7 and Article 2 of the Act and the Elections Code of the State of California. Owner agrees and intends that such consent and approval constitutes Owner's election to annex the Property to the District and to approve the authorization for the levy of the Special Tax within the Property.
4. The Owner waives any right, which the Owner may have to make any protest or complaint or undertake any legal action challenging the validity of the proceedings of the City or the District to authorize the future annexation of the Property to the District or the authorization for the levy of the Special Tax within the Property, any necessity, requirement, right or entitlement for further public hearing or election pertaining to the annexation of the Property to the District and the levy of the Special Tax within the Property.
5. The Owner specifically authorizes the levy of the Special Tax on the Property pursuant to the rate and method of apportionment set forth in **Exhibit 1.B** to pay for the authorized Public Services.

EXECUTED this 21 day of ^{JUN}~~June~~, 2016, in Pleasanton, California.

Taylor Morrison, LLC
a California Limited Liability Company

By:

By: 
Name: Jennifer Besmer
Title: VP

Note:

1. Signatures of property owner(s) or representatives must be notarized.
2. Proof of Authorization to sign is required for Corporations, Partnerships, Limited Liability Companies, Trusts, etc.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

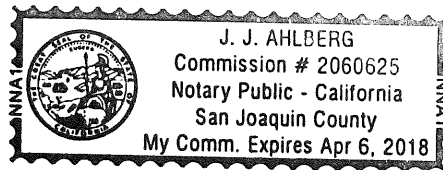
County of ~~Santa Clara~~ Alameda

On July 21, 2016 before me, J. J. Ahlberg, Notary
Public, personally appeared Jennifer Besmer

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.



Signature _____

A handwritten signature in cursive script, appearing to read "J. J. Ahlberg", written over a horizontal line.

EXHIBIT 1.A

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT

CITY OF MILPITAS

COMMUNITY FACILITIES DISTRICT NO. 2005-1
(PUBLIC SERVICES)

ANNEXATION NO. 16

Assessor's Parcel No.

Name of the Owner

086-28-050

TAYLOR MORRISON
A California Limited Liability Company

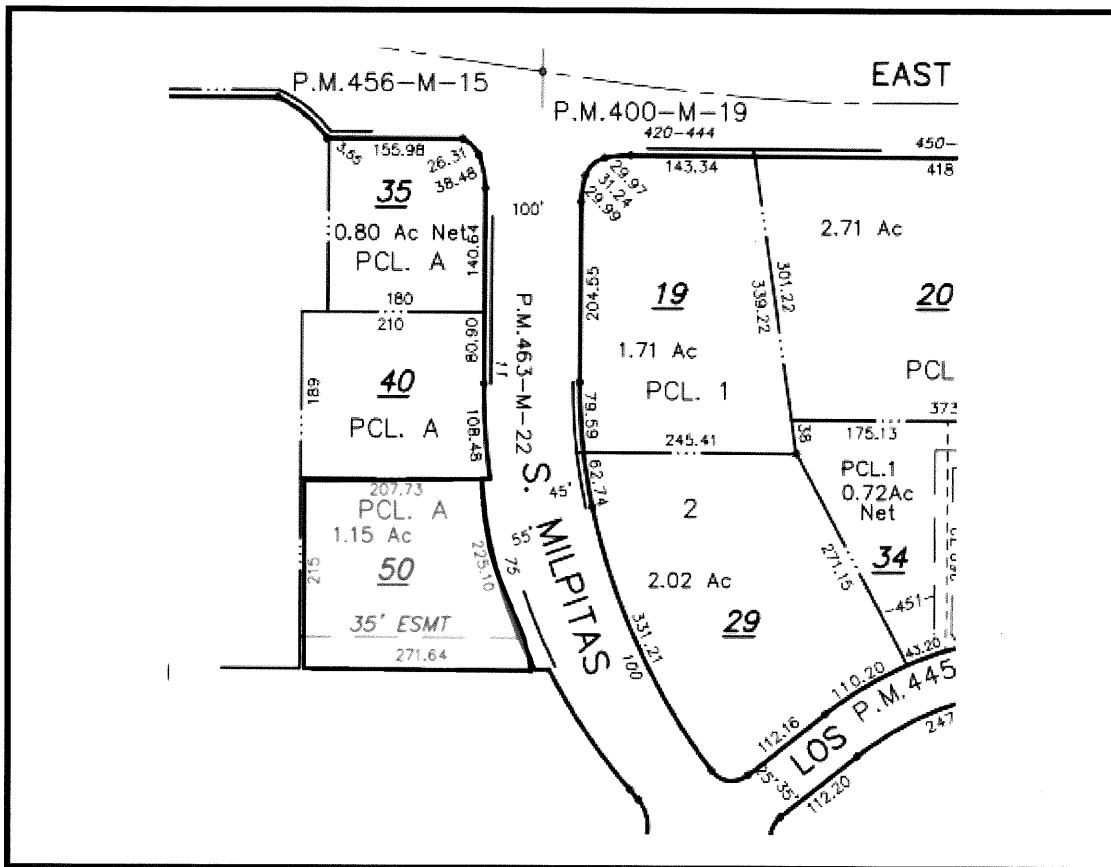


EXHIBIT 1.B

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT

CITY OF MILPITAS

COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Residential Property in City of Milpitas Community Facilities District No. 2005-1 (Public Services) ("CFD No. 2005-1"), and collected each Fiscal Year commencing in Fiscal Year 2005-06 an amount determined by the Council through the application of the appropriate Special Tax, as described below. All of the real property in CFD No. 2005-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2005-1: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 2005-1 or any designee thereof of complying with City, CFD No. 2005-1 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2005-1 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2005-1 for any other administrative purposes of CFD No. 2005-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Affordable Housing" means any Dwelling Units located on Residential Property that are subject to deed restrictions, resale restrictions and/or regulatory agreements recorded on the property that provide housing for persons that meet the Low, Very Low, and/or Extremely Very Low income levels pursuant to, as applicable, California Health & Safety Code Sections 50093, 50079.5, 50105, or 50106. The Fiscal Year

after the January 1 following the termination of the agreement containing covenants or similar instrument, a Dwelling Unit shall no longer be considered Affordable Housing.

"Assessor's Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel number.

"Certificate of Occupancy" means a certificate issued by the City that authorizes the actual occupancy of a Dwelling Unit for habitation by one or more residents.

"CFD Administrator" means an official of the City, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

"CFD No. 2005-1" means City of Milpitas Community Facilities District No. 2005-1 (Public Services).

"City" means the City of Milpitas.

"Consumer Price Index" means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the San Francisco-Oakland-San Jose Area, measured as of the month of February in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the San Francisco-Oakland-San Jose Area.

"Council" means the City Council of the City, acting as the legislative body of CFD No. 2005-1.

"County" means the County of Santa Clara.

"County Median Income" means the current median income for the County of Santa Clara as determined by the U.S. Department of Housing and Urban Development.

"Developed Property" means, for each Fiscal Year, all Assessor's Parcels of Residential and Non-Residential Property for which a Certificate of Occupancy, or equivalent certificate, was issued before February 1 of the prior Fiscal Year, but not earlier than February 1, 2005.

"Dwelling Unit" means a building or portion thereof designed for and occupied in whole or part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit. Boarding or lodging houses, dormitories, and hotels shall not be defined as Dwelling Units unless the land use permit specifies a residential use.

“Extremely Low-Income Affordable Housing” means Affordable Housing suitable for households with incomes at or below 30% of the County Median Income.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

“Land Use Class” means the land use class into which an Assessor’s Parcel of Residential Property has been assigned.

“Low-Income Affordable Housing” means Affordable Housing suitable for households with incomes at or below 80% of the County Median Income.

"Maximum Special Tax" means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C, below, that can be levied on any Assessor’s Parcel of Residential Property.

“Market-Priced Residential Property” means Residential Property not classified as Affordable Housing.

"Non-Residential Property" means, for each Fiscal Year, any Assessor’s Parcel of Developed Property which is not a Residential Property.

"Property Owner Association Property" means, for each Fiscal Year, any Assessor’s Parcel within the boundaries of CFD No. 2005-1 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association.

"Proportionately" means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Residential Property.

"Public Property" means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2005-1 that is owned by or irrevocably offered for dedication to the federal government, the State, the City or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2005-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"Residential Property" means, for each Fiscal Year, any Assessor’s Parcel of Developed Property for which a Certificate of Occupancy has been issued for purposes of allowing residents to inhabit one or more residential Dwelling Units.

“Services” means services that CFD No. 2005-1 is authorized to fund. CFD No. 2005-1 shall finance Services only to the extent that they are in addition to those provided in the territory of CFD No. 2005-1 before CFD No. 2005-1 was created and such Services may not supplant services already available within CFD No. 2005-1 when CFD No. 2005-1 was created.

"Special Tax" means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Residential Property to fund the Special Tax Requirement.

"Special Tax Requirement" means that amount to be collected in any Fiscal Year for CFD No. 2005-1 to pay for certain costs as required to meet the needs of CFD No. 2005-1 in that Fiscal Year. The costs to be covered shall be the costs of (i) Services, and (ii) Administrative Expenses; less (iii) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator.

"State" means the State of California.

"Undeveloped Property" means, for each Fiscal Year, all property not classified as Residential Property, Non-Residential Property, Public Property, or Property Owner Association Property.

"Very Low-Income Affordable Housing" means Affordable Housing suitable for households with incomes at or below 50% of the County Median Income.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Assessor's Parcels, as applicable within CFD No. 2005-1, shall be classified as Residential Property, Non-Residential Property, Undeveloped Property, Public Property, or Property Owner Association Property. However, only Residential Property shall be subject to annual Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Residential Property shall be assigned to Land Use Classes 1-4, as listed in Table 1, below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

a. Maximum Special Tax

The Maximum Special Taxes for Fiscal Year 2005-06 for Residential Property are shown below in Table 1, based on the Land Use Class in which such Residential Property has been assigned. Under no circumstances shall a Special Tax be levied on Non-Residential Property, or for renovations to an existing Dwelling Unit located on Residential Property.

TABLE 1

**Maximum Special Taxes for Developed Property
For Fiscal Year 2005-06
Community Facilities District No. 2005-1**

Land Use Class	Land Use Type	Maximum Special Tax Per Dwelling Unit
1	Market-Priced Residential Property	\$310.61 per Dwelling Unit
2	Low- Income Affordable Housing	\$248.48 per Dwelling Unit
3	Very Low-Income Affordable Housing	\$155.30 per Dwelling Unit
4	Extremely Low-Income Affordable Housing	\$0.00 per Dwelling Unit

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2006, the Maximum Special Taxes set forth above shall be increased annually by the greater of the change in the San Francisco-Oakland-San Jose Area Urban Consumer Price Index during the twelve months prior to February of the previous Fiscal Year, or two percent (2%).

2. Undeveloped Property, Non-Residential Property, Public Property or Property Owner Association Property

No Special Taxes shall be levied on Undeveloped Property, Non-Residential Property, Property Owner Association Property, Public Property or Residential Property assigned to Land Use Class 4.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Council or its designee shall levy the annual Special Tax Proportionately for each Assessor's Parcel of Residential Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

E. EXEMPTIONS

No Special Tax shall be levied on Undeveloped Property, Non-Residential Property, Public Property, Property Owner Association Property or Residential Property assigned to Land Use Class 4. However, should an Assessor's Parcel no longer be classified as Non-Residential Property, Public Property, Property Owner Association Property, or Residential Property assigned to Land Use Class 4, such Assessor's Parcel, if reclassified as Residential Property assigned to Land Use Classes 1, 2 or 3, shall be subject to the Special Tax. Furthermore, an Assessor's Parcel of Residential Property assigned to Land Use Classes 1, 2 or 3, if reclassified as belonging to a different Land Use Class, shall be subject to the Special Tax associated with its new Land Use Class.

Furthermore, no Special Tax shall be levied on the portion of Santa Clara County Assessor's Parcel Number 086-050-09 encompassed by the metes and bounds listed on Attachment 1.

F. APPEALS AND INTERPRETATIONS

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant's disagreement with the CFD Administrator's determination. The decision by the Council shall be final. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

G. MANNER OF COLLECTION

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2005-1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations. In particular, the Special Tax for Affordable Housing may be collected off of the tax roll, to facilitate payment of the Special Tax by a party other than the property owner.

H. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement.

ATTACHMENT 1

All that real property situated in the City of Milpitas, County of Santa Clara, State of California, described as follows:

A portion of "Parcel B", as said Parcel is shown on that certain Record of Survey Map filed March 7, 1963, for record in Book 157 of Maps, at Page 56, Santa Clara County Records, being more particularly described as follows:

Commencing at the point of intersection of the centerline of Abel Street, 90.00 feet wide, as shown on said Map, with the prolongation of the northerly line of "Parcel B", as shown on said Map; thence running along said northerly line and the prolongation thereof

- 1.) S64°01'00"W, a distance of 1,825.87 feet to the TRUE POINT OF BEGINNING; said point also being the beginning of a curve to the right, from which the radius point bears S25°59'00"E, a radial distance of 45.50 feet; thence leaving said northerly line
- 2.) Easterly and Southerly along said curve to the right, through a central angle of 142°55'16", a distance of 113.50 feet; to the beginning of a reverse curve to the left having a radius of 25.00 feet; thence
- 3.) Southerly along said curve, through a central angle of 39°49'17", a distance of 17.38 feet; thence
- 4.) S12°53'01"E, a distance of 413.45 feet to the beginning of a curve to the left having a radius of 370.00 feet; thence
- 5.) Southeasterly along said curve, through a central angle of 2°39'10", a distance of 17.13 feet to the southerly line of said "Parcel B", thence along said southerly line
- 6.) S66°02'30"W, a distance of 622.12 feet to the westerly line of said "Parcel B", said line also being the easterly line of State Highway "Interstate 880"; thence leaving said southerly line and running along said westerly and easterly line
- 7.) N14°19'57"W, a distance of 229.41 feet to the southerly line of the Lands of State of California as described in the deed recorded July 3, 1970 in Book 8975, Page 149, Official Records of Santa Clara County, California; thence running along said southerly line
- 8.) N75°40'03"E, a distance of 14.00 feet to the easterly line of said Lands of the State of California; thence leaving said southerly line and running along said easterly line
- 9.) N14°19'57"W, a distance of 140.47 feet; thence continuing along said easterly line
- 10.) N09°27'34"W, a distance of 139.91 feet to the northerly line of said "Parcel B"; thence leaving said easterly line and running along said northerly line
- 11.) N64°01'00"E, a distance of 572.58 feet to the TRUE POINT OF BEGINNING.

Containing 315,187.25 square feet or 7.2357 acres, more or less.

**CERTIFICATION OF ADEQUACY OF CONSENT AND ELECTION TO ANNEX
REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT**


CITY OF MILPITAS

**COMMUNITY FACILITIES DISTRICT NO. 2005-1
(PUBLIC SERVICES)**

ANNEXATION NO. 16

The undersigned is the duly appointed CITY CLERK for the proceedings relating to the annexation of property to the District.

On the 25th day of July, 20 16, at MILPITAS, California.


CITY CLERK
CITY OF MILPITAS
STATE OF CALIFORNIA

SHEET 1 OF 1

Filed in the office of the City Clerk of the City of Milpitas this ____ day of _____, 2016.

City Clerk, City of Milpitas

I hereby certify Annexation Map No.16 as shown within the boundaries of City of Milpitas Community Facilities District No. 2005-1 (Public Services), County of Santa Clara, State of California, was approved by the City Council of the City of Milpitas at a regular meeting thereof, held on the ____ day of _____, 2016, by its Resolution No. _____.

City Clerk, City of Milpitas

Filed this ____ day of _____, 2016, at the hour of ____ o'clock ____ m., in Book ____ of Maps of Assessment and Community Facilities Districts at Page ____ in the office of the County Recorder in the County of Santa Clara, State of California.

County Recorder,
County of Santa Clara

Reference is hereby made to the Assessor maps of the County of Santa Clara for an exact description of the lines and dimensions of each lot and parcel.

Boundaries of the
City of Milpitas
Community Facilities
District No. 2005-1

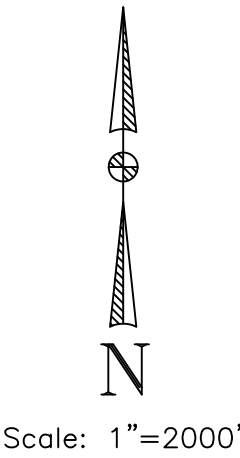
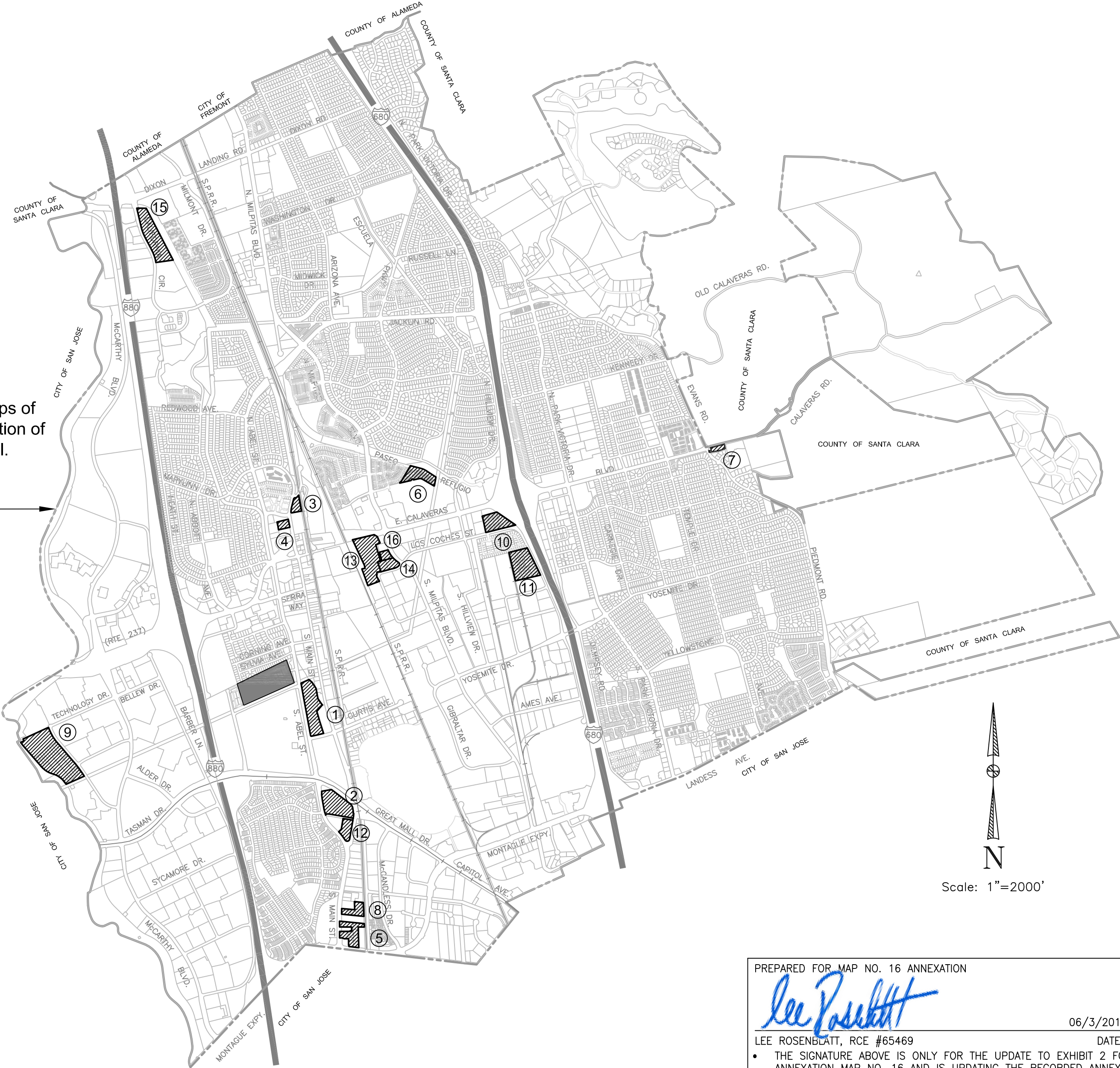
The territory included in the Community Facilities District shall include only Santa Clara County Assessor's for the following Annexation Maps:
Initial formation CFD 2005-1 : 08657001~08657104, 08659012~08659072, 08660001~08660058, 08662001~08662050, 08665001~08665095
Map No.1 : 08661001~08661105, 08664001~08664105
Map No.2 : 08667001~08667137
Map No.3 : 02834001~02834029
Map No.4 : 02208045
Map No.5 : 08634028~08634034, 08666001~08666024
Map No.6 : 02835001~02835065
Map No.7 : 08816081~08816085
Map No.8 : 08622043~08622045
Map No.9 : 08601041, 08601042
Map No.10 : 08629049, 08629050
Map No. 11: 08629042, 08629061, 08629062, 08629075, 08629076
Map No. 12: 08616100
Map No. 13: 08628041, 08639003
Map No. 14: 08639001, 08639002
Map No. 15: 02237011, 02237012
Map No. 16: 08628050
and all publicly owned areas in the City of Milpitas landscaped or capable of being landscaped, such as parks, parkways, street medians, interchange areas, light rail areas, open space and all similar areas. All other areas depicted on this map indicate territory that may be annexed to the Community Facilities District in the future.

EXHIBIT 2

ANNEXATION MAP NO. 16 AND UPDATE OF ANNEXATION MAP NO. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 AND 15 OF CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES), COUNTY OF SANTA CLARA STATE OF CALIFORNIA AS RECORDED IN BOOK 41 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 3 O.R. SANTA CLARA COUNTY

Legend

-----	City Boundary
■	Location of Initial Formation (Assessor Parcel No. 08605009)
▨	Annexation Area
①	Annexation Map No.



PREPARED FOR MAP NO. 16 ANNEXATION

Lee Rosenblatt 06/3/2016

LEE ROSENBLATT, RCE #65469 DATE

- THE SIGNATURE ABOVE IS ONLY FOR THE UPDATE TO EXHIBIT 2 FOR ANNEXATION MAP NO. 16 AND IS UPDATING THE RECORDED ANNEXATION MAP NO. 15 FILED DECEMBER 29, 2015 IN BOOK 51 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 38 PROVIDED BY THE CITY OF MILPITAS

Drawn By: M.A. File No. CFD 2005-1 Sheet 1 of 1